S T A T E O F N E W Y O R K

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I N S E N A T E

May 23, 2014

Introduced by Sens. NOZZOLIO, BALL, BONACIC, BOYLE, FELDER, GALLIVAN, GOLDEN, GRIFFO, HANNON, LANZA, LARKIN, LITTLE, MARCELLINO, MARCHIONE, MARTINS, MAZIARZ, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SAVINO, SEWARD, VALESKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to controlled substance organizations and operating as a major trafficker

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 18 and 20 of section 220.00 of the penal law, as added by section 27 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

18. "Controlled substance organization" means [four] THREE or more persons sharing a common purpose to engage in conduct that constitutes or advances the commission of a felony under this article.

20. "Profiteer" means a person who: (a) is a director of a controlled substance organization; (b) is a member of a controlled substance organization and has managerial responsibility over one or more other members of that organization; or (c) arranges, devises or plans one or more transactions constituting a felony under this article so as to obtain profits or expected profits. [A person is not a profiteer if he or she is acting only as an employee; or if he or she is acting as an accommodation to a friend or relative; or if he or she is acting only under the direction and control of others and exercises no substantial, independent role in arranging or directing the transactions in question.]

S 2. Section 220.77 of the penal law, as added by section 29 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

S 220.77 Operating as a major trafficker.

A person is guilty of operating as a major trafficker when:

1. Such person acts as a director of a controlled substance organization during any period of twelve months or less, during which period such controlled substance organization sells one or more controlled substances, and the proceeds collected or due from such sale or sales

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

have a total aggregate value of [seventy-five] TWENTY-FIVE thousand dollars or more; or

2. As a profiteer, such person knowingly and unlawfully sells, on one or more occasions within six months or less, a narcotic drug, and the proceeds collected or due from such sale or sales have a total aggregate value of [seventy-five] TWENTY-FIVE thousand dollars or more.

3. As a profiteer, such person knowingly and unlawfully possesses, on one or more occasions within six months or less, a narcotic drug with intent to sell the same, and such narcotic drugs have a total aggregate value of [seventy-five] TWENTY-FIVE thousand dollars or more.

4. IT SHALL BE AN AFFIRMATIVE DEFENSE TO THE CHARGE OF OPERATING AS A MAJOR TRAFFICKER THAT THE DEFENDANT WAS UNDER THE DIRECTION AND CONTROL OF OTHERS AND EXERCISED NO SUBSTANTIAL, INDEPENDENT ROLE IN ARRANGING OR DIRECTING THE TRANSACTIONS IN QUESTION.

Operating as a major trafficker is a class A-I felony.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.